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Paper No. 5

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In re Application of :
Blair et al. :
Application No. 10/073,966 :
Filed: February 14, 2002 :
Attorney Docket No. 3005-1001-2 :

OFFICE OF PETITIONS

DECISION GRANTING
PETITION

This is a decision on the petition filed January 7, 2003, to establish that pages 5, 6 and 9 of the specification were part of the originally filed application.

On February 14, 2002, the application was filed.

On November 26, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of February 14, 2002, and advising applicants that pages 5, 6, and 9 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing pages were deposited on February 14, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "25 Pages specification w/17 claims" on February 14, 2002.¹ Petitioner has also submitted a copy of the missing documentation- pages 5, 6, and 9.

Upon review of the record, pages 5, 6, and 9, deposited on February 14, 2002, have not been located. However, the evidence is convincing that the application papers deposited on February 14, 2002, included pages 5, 6, and 9, and that the pages were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of pages 5, 6, and 9 submitted with the petition will be used for examination purposes.

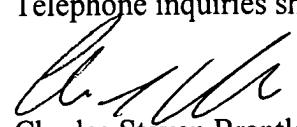
A refund of the petition fee will be scheduled.

The Notice mailed November 26, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 14, 2002, using the application papers filed on February 14, 2002, and the copy of pages 5, 6, and 9 of the specification filed on January 7, 2003.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


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